

**CONFIDENTIAL**

# **Report of Investigation Findings**

## **Disabled Students' Program**

**Submitted by:**

**Debbie Fong**  
**Equity & Inclusion, U.C. Berkeley**

**September 20, 2011**

## TABLE OF CONTENTS

I. Issue .....	1
II. Background .....	1
III. Investigation .....	2
A. Interview with Scott Anderson .....	2
1. Allegations of inappropriate electronic mail communications .....	3
2. Allegation of comments about [REDACTED] appearance.....	17
3. Allegation of not maintaining professional boundaries .....	17
4. Allegation of downloading and saving photographs.....	18
5. Allegations of being "high" and sharing prescription medication .....	18
6. [REDACTED] .....	20
Training and Orientation to the Job .....	20
Review of Documents and Relevant Policies.....	22
B. Follow-up Interview with [REDACTED] .....	25
IV. Discussion of the Issues .....	29
V. Conclusion .....	34
VI. Appendices	
Appendix A. Allegations of Inappropriate Behavior .....	35
Appendix B. Job Descriptions .....	36
Student Affairs Officer IV .....	36
Student Disability Specialist 4.....	40
Appendix C. Email Communications .....	44
Appendix D. List of Photograph Names and Emails .....	97
Appendix E. Sharing Prescription Medication Email Thread .....	102
Appendix F. Accommodation Letter and Email .....	105
Appendix G. Review of Policies and Standards Relevant to Position .....	108
AHEAD Code of Ethics.....	109
AHEAD Professional Standards.....	110
AHEAD Program Standards and Performance Indicators.....	112
TRIO and Other Educational Opportunity Programs CAS Standards and Guidelines .....	128
UC Statement of Ethical Values and Standards of Ethical Conduct .....	135
Appendix H. Follow-Up Email from [REDACTED] (July 23, 2011) .....	142

## I. ISSUE

On May 26, 2011, concerns were brought forward to [REDACTED] in the Disabled Students' Program (DSP), by [REDACTED], a former U.C. Berkeley [REDACTED] who graduated in [REDACTED] and [REDACTED]. Because some of the issues included possible violations of University policies, [REDACTED] reported [REDACTED] concerns to the Campus Climate and Compliance Office.

[REDACTED] alleges that Dr. Scott Anderson, who served as her Disability Specialist between 2008 and 2009, demonstrated behavior towards her during that period that was unwelcome, unprofessional, and inappropriate. Dr. Anderson was placed on paid investigatory leave. The allegations span various issues, some of which are currently being investigated under the University of California Policy on Sexual Harassment by Title IX Compliance Officer Denise Oldham, who conducted the initial interview with [REDACTED]. The following allegations were gleaned from the initial interview and discussed with Dr. Anderson (see Appendix A):

[REDACTED] has alleged that Dr. Anderson engaged in the following conduct:

- A. He made comments about [REDACTED] appearance, both verbally and in email.
- B. He made comments and sent emails that contained sexual innuendo and sexual jokes.
- C. He shared details about his personal life and became increasingly involved in her personal life to an extent that made her uncomfortable.
- D. He [REDACTED] photographs of [REDACTED] which he saved in a folder on his computer.
- E. He told [REDACTED] he had a crush on her. He went into a "jealous rage" over the subject of her relationship with a platonic male friend. He once asked her if she would sleep with him.
- F. He mentioned to her numerous times that he was "high" and needed to be in that state to "get through the day." He offered her prescription medication and he asked [REDACTED] to give him some of her prescription medication.

G. [REDACTED]

This investigation was conducted to see whether or not there was evidence to support [REDACTED] allegations. And, if there was evidence, did Dr. Anderson's conduct and actions constitute misconduct.

## II. BACKGROUND

Dr. Scott Anderson is a Disability Specialist in the Disabled Students' Program (DSP) who was hired in the department on January 23, 2008 as a Student Affairs Office IV (the position was subsequently mapped to Student Disability Specialist 4 under Career Compass). Dr. Anderson reports to [REDACTED]

[REDACTED] In his role, Dr. Anderson is "the primary person responsible for the provision and coordination of academic services to students with psychological disabilities including major mood disorders, anxiety

disorders, and psychotic disorders." Dr. Anderson also serves students who are eligible for services under the Federal TRIO SSS program. (See job descriptions, Appendix B) [REDACTED] was part of Dr. Anderson's initial caseload of [REDACTED].

### III. INVESTIGATION

The scope of this investigation included a review of electronic mail communications between Dr. Anderson and [REDACTED] for the period of June 11, 2008 to June 10, 2011; a search on Dr. Anderson's desktop computer hard drive for materials pertaining to [REDACTED] specific allegations; and a review of documents and pertinent policies and standards related to the Disabled Students' Program, the University of California and U.C. Berkeley, professional codes of ethics, and federal laws and guidelines. In addition, interviews were conducted with the following individuals: Scott Anderson, [REDACTED], [REDACTED], [REDACTED], and [REDACTED].

Because many of the allegations were interrelated with the investigation being conducted by Title IX Compliance Officer Denise Oldham, portions of this investigation were conducted jointly with her.

#### A. Interview with Scott Anderson

On July 8, 2011, Dr. Anderson was interviewed by this investigator and Title IX Compliance Officer Oldham. Also present were Dr. Anderson's attorney, [REDACTED] and [REDACTED]. In the meeting, Dr. Anderson was provided with a written document, "Allegations of inappropriate behavior raised by [REDACTED]." He was asked a set of questions pertaining to the allegations as well as shown a series of electronic mail communications that took place between himself and [REDACTED] between 2008 and 2009.

Dr. Anderson has been working in the Disabled Students' Program since 2008. He indicated that he has the most "robust" (highest quantity) caseload of all the specialists, with between 220–250 students spring semester [2011]. He explained that he works with students with psychiatric disabilities, depression, and with Axis 1 [clinical disorders and developmental learning disorders] and Axis 2 [personality disorders] diagnoses. He described his caseload as the most "volatile" in terms of student behavior and indicated that the demands on accommodations can challenge him because they frequently include parent involvement. He described the work as "satisfying."

Dr. Anderson was asked to talk in general about professional boundaries as they apply to a job like his and to describe the line between professional service and personal involvement. Dr. Anderson explained that during an hour-long interview with a student, he comes up with a service plan with regards to accommodations that are necessary to "even the playing field." He indicated that often personal information is shared on the student's behalf (such as sobriety, hospitalization, recovery) that sometimes "enlightens and informs" the formulation of the service plan. In response to a follow up question about how he deals with information not necessary to do his job, Dr. Anderson indicated that he would refer back out to the original referral source (e.g., psychiatrist) if serious. He further indicated that if the information from the student is "benign chit chat," he has told students that the information is beyond the purview of

the work and that there is too much irrelevant information. He indicated that this does not happen often.

Dr. Anderson was asked if he had ever asked his supervisor to have any of his students transferred to another specialist. He indicated that this happens when the presenting disability is not the disability that the student came to DSP with. In such situations, students will be referred to another specialist. He mentioned that maybe 2-6 students are not happy and will ask to see another specialist. Dr. Anderson indicated that some students see him once or twice, they get their accommodations, and never see him again. He described others as being "more needy." He indicated that he sees them more often because they need "hand holding," and they need to be "cheered on."

Dr. Anderson described [REDACTED] as the "most highly intelligent student" he has ever worked with. He indicated that at their first meeting she was [REDACTED]. He said that [REDACTED] was one of the first students he met in his job. He indicated that she "told me her story, how recent [REDACTED]." Dr. Anderson indicated that she "frequently [REDACTED]." He indicated that he provided support. He added that the "[REDACTED]." He said, "I responded, I think you can do this; you're able to recover." He indicated that she lightened up and made a follow-up appointment. He said, "I don't recall her saying that this was uncomfortable or too much talking."

Interaction with [REDACTED] in May 2011: [Investigator's note: In May 2011, [REDACTED] went to the Disabled Students' Program because she needed accommodations for two Summer Sessions [REDACTED] courses.] Dr. Anderson described his interaction with [REDACTED] in May. He said that [REDACTED] went into his office for about five minutes and asked how he was doing. He indicated that she appeared [REDACTED] and was [REDACTED]. Dr. Anderson indicated that [REDACTED] asked, "How is your [REDACTED]?" He said that her question "beguiled me, stumped me. Where did that come from? It stunned me." Dr. Anderson said that she talked in detail about the effects of [REDACTED]. He said, "She thanked me for helping her get her college degree." [REDACTED] told him that she was coming back to take a class in Summer Sessions. He indicated that she said, "I'm coming back—are you going to be my Disability Specialist?" Dr. Anderson responded "no," because her disability had changed. He said he told her that she "would be in good hands with a colleague who handles [REDACTED]." He indicated that she had forgotten a conversation that took place before she graduated when she had received news of a new [REDACTED]. He said that she was [REDACTED] about what this would mean. He said, "She asked me to contact her [REDACTED] ... I did after I got a release." He said, "Subsequently she called me asking for a new Disability Specialist [REDACTED]."

#### 1. Allegations of inappropriate electronic mail communications

[REDACTED] provided copies to the investigators of some email communications between her and Dr. Anderson. In order to confirm the veracity of her claims, the investigators received permission from U.C. Berkeley Chief Information Privacy and Security Officer Ann Geyer to review past emails from Dr. Anderson to [REDACTED] that were still

archived on the campus CalMail Server. The investigators verified that between August 14, 2008 and November 10, 2009, Dr. Anderson sent at least 167 email messages to [REDACTED] during the workday from his CalMail account.

**ALLEGATION:** [REDACTED] alleges that Dr. Anderson sent emails that commented on her appearance and that contained sexual innuendo and sexual jokes.

The emails below are samples of emails sent from Dr. Anderson. The email threads are in reverse time order, beginning with the earliest message. In his interview, Dr. Anderson was shown the emails and asked to provide explanations. His responses follow. A complete set of emails that were discussed with Dr. Anderson is attached in chronological order in Appendix C:

1. Sent: December 12, 2008

[REDACTED] wrote:

I was in [REDACTED] [REDACTED] [REDACTED]. Plus [REDACTED]  
does not [REDACTED].

From: Scott Anderson  
Sent: Friday, December 12, 2008 11:02 AM  
Subject: Re: Annoying evening

*You mean [REDACTED] ? Happens to me to. [sic] Odd.*

*It's waking up the morning after that can be a little slow, or agitated, or down that gets me. You?*

**RESPONSE:** Dr. Anderson indicated that he did not recall conversations where [REDACTED] did not mention medications of one form or another. He said that her [REDACTED] was a [REDACTED]. He said that her new [REDACTED] [REDACTED]. He indicated that because [REDACTED] [REDACTED] He indicated that it was not his intent to "commiserate" around [REDACTED] [REDACTED]. He stated, "I was trying to relate that these things affect people differently." He indicated that he "could have brought it up to my supervisor. Now I know it comes with maturity and doing my job longer."

2. From: Scott Anderson

Sent: Monday, January 26, 2009 8:04 AM  
Subject: Re: Lunch

*Good morning, now get your profane ass outta bed.*

*Let's do Wednesday. Will you be up by noon lazy-bones?*

**RESPONSE:** Dr. Anderson responded that [REDACTED] major was [REDACTED] [REDACTED] and that he was referencing an essay on the "sacred" vs. "profane." He indicated that she was [REDACTED]. He said, " [REDACTED] [REDACTED]

[REDACTED].” He indicated that this was an “ill-advised attempt to use humor—to be a motivator or coach.” Dr. Anderson was asked if he used this tone with others. Dr. Anderson replied, “Not to the best of my recollection.”

3. From: Scott Anderson  
Sent: Monday, January 26, 2009 2:57 PM  
Subject: Emergency of highest import

*I need to know exactly what food it was (a dessert I think) that you used to eat over the phone whilst making certain sounds to boy's [sic] who called you in high school. Remember?*

RESPONSE: Dr. Anderson indicated that he did not recall email.

4. From: Scott Anderson  
Sent: Tuesday, January 27, 2009 10:47 AM  
Subject: nunsence

*It's almost 11:00 time to get your weary - stapled ass outta bed, put on the fishnets and make some money. I thought of a career for you . . a nun?*

RESPONSE: Dr. Anderson indicated that he did not recall email.

5. On Thu, Jan 29, 2009 at 11:54 AM Scott Anderson wrote (*in response to an email thread that started on January 28, 2009; see full thread, Appendix C, page 49*):

*French and piano . . what else don't I know. Well, I Kind of knew about the whole French Fetish but piano? An [sic] to think, yesterday you sere [sic] curled up in the fetal position on my floor. You have a few theories do you? Hmm. Like what?*

[REDACTED] wrote:

My theory:  
Scott is not [REDACTED] and feels trapped [REDACTED] . [REDACTED]. If Scott was still [REDACTED] [REDACTED] . Scott likes his job in theory, but would rather not work. Sometimes he resents having to be responsible.

[REDACTED] wishes she could stay home ALL day today with no schedule, like she originally planned, but needs to go [REDACTED]

[REDACTED]

[REDACTED] She feels that she should be reprimanded.

From: Scott Anderson  
Sent: Thursday, January 29, 2009 3:55 PM  
Subject: Re: At it

*Some other possibilities your email made me CRACK UP!*

[REDACTED] is so [REDACTED]  
having to be responsible, he never resents [REDACTED].  
[REDACTED] e [REDACTED]  
[REDACTED] r [REDACTED]  
[REDACTED] eavor when [REDACTED] re [REDACTED]  
[REDACTED] eme. Before [REDACTED]  
[REDACTED] Although h [REDACTED] n [REDACTED]  
[REDACTED] dation [sic].

RESPONSE: Dr. Anderson stated, "I can't speak to her thinking. I have a wonderful [REDACTED]" He indicated that he did not recall the email and he described his response as providing a "whimsical response or paradoxical statement to what she's writing below." Dr. Anderson was asked how he thought writing about [REDACTED] was whimsical. He indicated that he did not have an answer and that it was "casual banter that the student brought to our sessions." In a follow-up question, Dr. Anderson was asked about his voluntary dissemination of information about his personal life and how this was appropriate in any context. He indicated that he did not have an answer other than "it was a misguided sense of easy familiarity" that the student brought to their sessions together.

6. On Feb 2, 2009, at 2:04 PM, Scott Anderson wrote:

*Entitlement, it's the thing I can't stand about this job.  
"Can I get you fries and a shake with that accommodation?"  
Sheesh . . .*

[REDACTED] wrote:  
Yes. I would like fries and a chocolate shake made with chocolate ice cream. None of that vanilla ice cream with chocolate sauce bull shit. And I expect you to deliver it personally to my house since I am unable to make it to campus. Don't fuck it up or I will file a formal complaint.

From: Scott Anderson  
Sent: Tuesday, February 03, 2009 10:19 AM

Subject: Re: Entitlement.

*I knew it was a bad idea to take Levitra before I read your email. (what the hell does that mean anyway)?*

*Paradoxically though, the students are the best part of the job as well. A few bad apples but you get that in every job.*

*Have you thought about being either a Dali Lama or a Dominatrix? You'd be good at both. ;-)*

**RESPONSE:** Dr. Anderson was asked to explain what Levitra is and he stated, "I believe that's a drug used by males and used for erectile dysfunction." (See Appendix C, page 53) He added, "I don't understand how that could be helpful in my job as a DSP specialist." He described his response as an "ill-advised attempt at humor." He also described his use of the word "Dominatrix" as a "flip comment." He indicated that [REDACTED] had "ups and downs with her [REDACTED]" and the word [Dominatrix] was "juxtaposed with [REDACTED]."

7. From: Scott Anderson  
Sent: Friday, February 13, 2009 8:33 AM  
Subject: substance p  
Attachments: gotPlansWhipCream[1].gif

*Happy Valentines day,  
Any plans or un-toward behavior/symptoms I need to be concerned about?  
It's 8:30AM. Time to drag your weary, under-burdened ass outta bed.*

[Investigator note: The attachment is a picture of a can of whipped cream, strawberries, and handcuffs. See Appendix C, page 55]

**RESPONSE:** Dr. Anderson had no explanation for the email. He described it as an "ill-advised attempt at humor." Title IX Compliance Officer Oldham commented that the email "looks like a come-on." Dr. Anderson responded "not so, but I can understand how you could see it that way."

8. From: Scott Anderson  
Sent: Wednesday, March 18, 2009 4:45 PM (see full thread in Appendix C)  
Subject: Re: Desi

*Twice in one week? I'm lucky. Tomorrow I have a wonderful "students with disabilities" lecture I have to go to at lunch :-< and am booked the rest of the day except 9:00am. Your weary ass will still be sleeping then. I do kind of have 1:10 or so open.*

**RESPONSE:** Dr. Anderson responded that he did not recall what the email was about. He indicated that it was an "unfortunate tone, I would never use that in

2011." He said, "Knowing what I know now—that this is not helpful and it's inappropriate—I would never communicate this to a student."

9. In response to a photograph of [REDACTED] (see thread in Appendix C)  
On Fri, Mar 20, 2009 at 1:49 PM, Scott Anderson wrote:

[REDACTED] *t the gas station – from the pic* [REDACTED] *[sic]* [REDACTED]

[REDACTED] *15<sup>th</sup> pic up from the bottom.*

[REDACTED] wrote:

I am well aware of the photo you're talking about... wasn't I hot!! I have 2 more teeth for you.

From: Scott Anderson  
Sent: Friday, March 20, 2009 2:03 PM  
Subject: Re: your photo

*A total babe. All you needed was a gun.* [REDACTED].

[REDACTED] wrote:

I think it might be sexier having the gun with the short hair... if I'm all made up and in a short skirt

From: Scott Anderson  
Sent: Friday, March 20, 2009 2:15 PM  
Subject: Re: ps

*Agreed – and a little cammo face paint. Whew . . . HOT !!!*

RESPONSE: Dr. Anderson responded that this was an "ill-advised attempt to increase the way she felt about herself... to lift her up." He indicated that "it wasn't my intent to come on." Dr. Anderson was asked if "hot" would not in any way be mistaken as a compliment. He said, "Perhaps." He indicated that this was to "abate messages from her that she was not good-looking." Dr. Anderson was asked if he thought [REDACTED] was attractive. He responded, "Yes. I see how it comes out... not my intent to come on as 'babe you're hot.'" He indicated that "if there was fault here, it is that I didn't go to my supervisor to say that a student is asking more than I can give."

10. On Apr 8, 2009 at 4:10 PM, Scott Anderson wrote (see longer thread, Appendix C):

*Well which was it? The "yes" from [REDACTED] or the double bag because you are [REDACTED]? Did no one say how long you should expect to wait?*

[REDACTED] wrote:

It's neither! I'm following Jesus and walking everywhere :) [REDACTED] is supposed to take 5 months, it's already been 8 months. So much for the timeline =/

From: Scott Anderson  
Sent: Wednesday, April 08, 2009 4:31 PM  
Subject: Re: Harvard Called...

*You just made me LMFAO and shoot coffee through my nose.  
You and Jesus alkin , GO GIRL!  
It sounds like [REDACTED] is right on track as ususal [sic]. . . You might try and eat your leather shoes t ave money.*

RESPONSE: Dr. Anderson responded that he was trying to "prop up her spirits." He said that with experience and maturity in the job in 2011 he "never would say that now." He indicated that his "efforts at being a cheerleader or coach for students are different now than when I wrote that email" and "the tools I have now are more effective." Dr. Anderson referred to a "casualness" or "easy familiarity" that the student brought to their sessions. He indicated that the student never said to him, or gave him feedback, that this tone made her uncomfortable. He added that he "misjudged how I might be most effective."

11. On May 28, 2009, at 3:55 PM, Scott Anderson wrote:

*Are you in class this summer? You need to request accoms for it.*

[REDACTED] wrote:  
I thought we did that when I saw you.

From: Scott Anderson  
Sent: Thursday, May 28, 2009 4:11 PM  
Subject: Re: Dsp letter

*No, I pre-loaded them, you still need to log on and request them, I can't do that part.  
And I'll only approve them if your [sic] lucky ;)*

RESPONSE: Dr. Anderson indicated that this was a "light-hearted attempt" to be humorous.

12. From: Scott Anderson  
Sent: Tuesday, July 07, 2009 11:39 AM  
Subject: Re: been meaning to be in touch

*Remind m ell you about [REDACTED] coming in while I was viewing a fine internet site called [REDACTED] :-/ Duh-OH!*

[Investigator note: [REDACTED] [REDACTED]]

RESPONSE: Dr. Anderson responded that this was an "attempt at colluding with humor," that it was an "ill-advised attempt at humor." He said, "If I visited that [REDACTED] I don't recall." He indicated that "that kind of behavior would be a character defect that I would be working on in therapy." In a follow-up question, Dr. Anderson was asked if he [REDACTED] at work. Dr. Anderson stated, "Not that I can recall." But he indicated, "I'm implying that to the student." He further commented that this was a "conversation piece." He said, "I'm quite busy at work and work is not the place to do that."

13. On Wed, Jul 8, 2009 at 2:53 PM, Scott Anderson wrote:

*I'm a doctor.. I knew that! I wasn't in Monday and had 8 people today so I'm out of it. Next Wed?*

[REDACTED] wrote:

I have you down for next Wednesday. Can you schedule me for an appt with you that same day at 1pm so that we can extend the lunch?

From: Scott Anderson  
Sent: Wednesday, July 08, 2009 3:04 PM  
Subject: Re: wed?

*Only if you refer to me as "Doctor", from now on....;-0*

RESPONSE: Dr. Anderson indicated that this was likely the same tone as email on May 28; an attempt to be humorous.

14. On July 9, at 10:33 AM, Scott Anderson wrote:

*It's 10:30, time to drag your weary [REDACTED] ane, lazy ass outta bed and get [REDACTED] your class. Are you taking a couse [sic] [REDACTED] still? Will you be going to a [REDACTED] [REDACTED] Your one liner ma [REDACTED] e laugh laugh [sic] out of the b [REDACTED] me to time. "I may be crazy-but I'm not stupid". I'll never hear that one again around here ;-9*

[REDACTED] wrote:

I was out of bed (albeit against my better judgment) at 10am. Yes I am taking [REDACTED] thing. Why? Want to go? You're funny. I miss you. Can't wait till Wednesday.

From: Scott Anderson  
Thursday, July 09, 2009 11:38 AM  
Subject: Re: I may be crazy but...

*My most normal student (you're a [REDACTED] know what I mean) and a kindred was planning on going to [REDACTED], but unsure if there was a [REDACTED] in the fall.*

*And where were you six years ago? Oh yeah.. you were [REDACTED]!*

**RESPONSE:** Dr. Anderson responded that [REDACTED] was having difficulty [REDACTED]. He indicated that his email was in the "same light-hearted tone." He indicated that he was attempting to "use her language—wary and profane—and I threw in 'ass'." He responded that she mentioned that she thought she was unattractive and by using the word "friend," he meant "kindred spirit." He did not recall writing the email or what his thoughts were. Regarding his question "Where were you six years ago?," he recalled that "she dwelled on age a lot," because everyone around her was younger and she thought it was too late to [REDACTED]. He indicated that "commonly with students I effect discourse that students bring to me."

15. On Thu, Jul 9, 2009 at 3:33 PM, Scott Anderson wrote:

*What's up? I get worried when I hear you're [REDACTED].*

*Unrequited love? Bad class? Time of the month, wrong side of the bed? Bad hair day, Bad lasagna?*

*Wish you were hear [sic] tomorrow. What's up?*

[REDACTED] wrote:

I don't even know...I'm just sick and tired of people wanting me to do things.

From: Scott Anderson  
Sent: Thursday, July 09, 2009 4:03 PM  
Subject: Re: icky....

*That's it. I'm calling. If your [sic] in class...better turn off the phone.*

**RESPONSE:** Dr. Anderson indicated that at some point he became more concerned about her. He described her [REDACTED] [REDACTED]. He indicated that he communicated with her [REDACTED]. In reference to writing "time of the month," Dr. Anderson indicated that this referred to the monthly cycle, that a [REDACTED] is sometimes associated with a monthly cycle." He stated, "I was trying to get her to respond." Dr. Anderson was asked if it was normal for him to check in like this with his students. Dr. Anderson indicated that there were students, such as autism students, that he checked in with frequently, depending on the needs of the student. He indicated that he did not check in with the "same kind of casualness, banter."

16. On Jul 13, 2009, at 11:31 AM, sanderson@berkeley.edu wrote:

*I hope you got a lot of cleaning done. Now roll outta bed and get ready for class.  
Sent from my iPhone*

[REDACTED] wrote:

Kiss my ass. Oh, you would wouldn't you?! I was out of bed at 9 working.  
My house is emaculate. [sic] Oh, yeah, I still managed to look cute today =P

...

From: Scott Anderson  
Sent: Monday, July 13, 2009 12:58 PM  
Subject: Re: Another one.

*Kiss it? Only after I spanked it. Always cute.*

RESPONSE: Dr. Anderson did not recall the email. He stated, "If I did it, it was an attempt to bolster a flagging spirit, how she felt about herself, her looks." He indicated that it was ill-advised and an "unfortunate thing to have said."

17. From: Scott Anderson  
Sent: Tuesday, July 14, 2009 4:20 PM  
Subject: It's there  
Attachments: Kim Jong.jpg

*Show the Prof this:*

*You'll get an A for sure. I changed your last one from A- to A as well.*

[Investigator note: the attachment is a photograph of North Korean leader Kim Jong II. At the bottom of the photograph are the words "DAT ASS." See Appendix C, page 75]

RESPONSE: Dr. Anderson responded that this was an "attempt to humor her, to lift her spirits up." He described it as a joke. He noted, "as we know, I didn't have authority to change grades." He indicated that he assumed that the [REDACTED] knew this. Regarding the attachment, Dr. Anderson indicated that "she was experiencing so many negative things [REDACTED]" that this was an attempt to communicate "yeah, you don't look as bad as that." He commented that "this might not be the most useful thing that I could have done for her."

18. Email thread titled "Re: Mr UK" starts around July 20, 2009 (see Appendix C, pages 76-80 for full thread)

On Jul 20, 2009, at 3:53 PM, Scott Anderson wrote:

*Well, it's appropriate and to the point. Not rude either. If you feel stalked, I'd not send anything over again, but I'm not in your shoes so I just don't know.*

*I want to give you the right answer, and hate seeing you like this. Remember you owe him nothing, including communication. Giving him feelings at this point (even angry ones) is a gift and an "in" so be careful. Your [sic] a bit vulnerablee [sic] just now. Regardless, I'd not write back for a few hours. SHIT!*

[REDACTED] wrote:  
Do the phones work yet?

From: Scott Anderson  
Sent: Monday, July 20, 2009 4:37 PM  
Subject: Re: Mr UK

*Yes, I just tried to call you.*

On July 21, 2009, at 9:43 AM, Scott Anderson wrote:

*WAKE THE F\* UP Coz I gotzt to know:  
Did you mail back or talk?  
R U hanging in there?*

[Investigator note: this is part of a series of emails where [REDACTED] asks Dr. Anderson for advice on her [REDACTED].]

RESPONSE: Dr. Anderson responded that he was "brought into the drama of her life." He indicated that he did not want to see her hurt and did not want to see her kicked out of school. Dr. Anderson was asked why he did not make referrals to other campus resources such as CARE. Dr. Anderson indicated that "in hindsight, it would have been ok to refer her to other resources," and that she may have been better served by Counseling Services at Tang.

19. From: Scott Anderson  
Sent: Tuesday, July 28, 2009 1:48 PM  
Subject: Re: check it yo'

*Don't trip sister... it looks good.  
[REDACTED] in dawning my Banana hammock, strolling into your class and saying, "Is [REDACTED] Here? I need to speak with her in the mens' room for a few moments... she likes that".  
Cool?*

RESPONSE: Dr. Anderson did not recall the email. He stated, "If I've written this email, it's embarrassing." In response to what a "banana hammock" is, Dr. Anderson responded that it is a "speedo kind of thing."

20. From: Scott Anderson  
Sent: Monday, August 03, 2009 1:34 PM

Subject: cheer you up?

*50 Things you don't say while having sex*

01. *Is it in yet?*
02. *Is that it?*
03. *You have to be kidding me*

Etc.

[Investigator note: The body of the email message consists of a list of 50 items; see Appendix C, pages 85-86]

RESPONSE: Dr. Anderson indicated that the email was a "repeated attempt at humor," and that he was "trying to cheer her up."

21. On Mon, Aug 10, 2009 at 3:04 PM, Scott Anderson wrote:

*So, do I reward you for finishing 3 papers or punish you for not?  
Either way, meet me at registrars office, I'll bring the cuffs.*

[REDACTED] wrote:  
Did you get in?

From: Scott Anderson  
Sent: Monday, August 10, 2009 3:19 PM  
Subject: Re: reward as punishment.

*Depends, did you finish your papers?"  
"Don't argue".*

RESPONSE: In response to the comment that "cuffs" sounds like "handcuffs," Dr. Anderson indicated that there were three papers that [REDACTED] had to get through that were causing [REDACTED] and that the use of "handcuffs" was an "off-color attempt at humor." He said that he was not clear about his thinking on that, "likely some kind of joke." He indicated that this was the "commerce of conversation that [REDACTED] brought to bear" and that she talked about handcuffs and [REDACTED] using handcuffs.

22. On Aug 12, 2009, at 3:43 PM Scott Anderson wrote:

*Well hot pants... I'm waiting....*

[REDACTED] wrote:  
Im [sic] wearing a miniskirt- not pants!

From: Scott Anderson  
Sent: Wednesday, August 12, 2009 3:49 PM  
Subject: Re: hot

*Oh sweet lord. Can't.  
She is gone two weeks [REDACTED] so I may be a bit more flexible then. No sex as you  
could not handle me.*

*Himmm a miniskirt. Need pics. RITE NAO.*

RESPONSE: Dr. Anderson responded, "Clearly a case where I should have hit the breaks and talked to the supervisor." He indicated that he was responding in kind to the "commerce of language that she brought to bear." He indicated that he had never been to her place and that she had never been to his place and that they always met in a coffee shop. When queried as to what he meant by "I'm waiting," Dr. Anderson responded, "interesting." He could not recall what he was waiting for.

23. From: Scott Anderson  
Sent: Thursday, August 13, 2009 3:24 PM  
Subject: Scare me

*Ready when you are.*

RESPONSE: Dr. Anderson did not recall email. He indicated that he could be referring to [REDACTED] "diagnosis coming through" or "what she suspected in terms of diagnosis."

24. From: Scott Anderson  
Sent: Wednesday, August 19, 2009 4:53 PM  
Subject: My diagnosis!

*(Follow this link, You may laugh.)  
I've finally been diagnosed. Will you give me a hand with it?*

*<http://en.wikipedia.org/wiki/Frotteurism>*

*Can't wait to see you tomorrow.  
Stay well please.*

[Investigator note: printout of Wikipedia link is in Appendix C, page 93: "Frotteurism refers to a paraphilic interest in rubbing, usually one's pelvis or erect penis, against a non-consenting person for sexual gratification."]

RESPONSE: Dr. Anderson described this as "something ill-advised." He indicated that it was a "misguided attempt at humor or coaching her along." He commented that it was "kind of like gallows humor." Dr. Anderson was asked to

explain why he would use humor that was pretty sexualized. He described [REDACTED] as having "poor self-image." He indicated that the language she was conversant in was sexualized. He commented that it "was not his intention to hurt or offend or intimate that it [frotteurism] was something that [he] wanted to engage in." He stated, "Looking back, it hurts to see my misjudgment on that."

25. From: Scott Anderson

Sent: Friday, September 11, 2009 3:58 PM (*birthday invitation thread is in Appendix C*)  
Subject: Re: [REDACTED] Birthday Potluck Pool Party [REDACTED]

*Hello,*

*I don't' [sic] think I can make it tomorrow, but will still try as it sounds fun. [REDACTED]  
I are in the middle of it just now. Grrr.....*

RESPONSE: Email is in response to a [REDACTED] invitation from [REDACTED]. Dr. Anderson indicated that he was not willing to go the student's party. His response was to "depersonalize and gave reason for not going," and that this was "not a boundary I would cross." Dr. Anderson recalled having received other invitations. He indicate that it was very common to be asked to meet for coffee by other students. He noted that lunch comes up from time to time but that he usually does not do this as "I'm too busy."

26. On Sep 24, 2009, at 10:09 AM, Scott Anderson wrote:

*You at school today?*

[REDACTED] wrote:

*Got your message. Someone is picking up my letter today. I talked to [REDACTED] about it. So leave it there or my friend will freak out when he stops by and it's not there. But if for some reason it's still there tmrw afternoon, I would love it if you'd take it to L&S for me. Thank you :)*

From: Scott Anderson

Sent: Thursday, September 24, 2009 1:42 PM

Subject: Re: Crossin Pickets.

*hmmmm*

*Is that jealousy [sic] I'm feeling?*

*I'm not a supergenius*

*or, are I.....*

RESPONSE: Dr. Anderson indicated that this was a "bumbling attempt at humor." He indicated that she had an "on-again/off-again relationship with other men." He said, "I could have said it better, for example, it's 'good someone else is in your life.'"

Dr. Anderson was asked if he recalled other students in his care having negative self-images of themselves and if he would have sent the kinds of emails he sent to [REDACTED]. Dr. Anderson indicated that he would have "challenged the perception in a more clinically precise way." He indicated that his responses were in part due to "what [REDACTED] brought to bear in the commerce of language in her appointments."

Dr. Anderson was asked if [REDACTED] ever gave any indication that the tone was uncomfortable. Dr. Anderson responded that he "never had sense. Not one time. Not from face-to-face conversation or email." Dr. Anderson was asked how he knew that it was okay to take the conversation tone that he did. Dr. Anderson indicated that [REDACTED] never gave a "stop sign" or "marker." He referred to a "conversant language" that was the "kind of the commerce or economy of language that seemed to reach [REDACTED] versus 'pick up your accommodation, you'll be okay.'" He indicated that [REDACTED] was one of the first [REDACTED] in his caseload. He indicated that he used the repertoire that he knew and that "at some point it felt that she was giving up or giving in to [REDACTED]." He said that saying "you'll be okay, keep going" was not effective and that there was a "dismalness that I could clearly see." He indicated that he should have engaged his supervisor.

## 2. Allegation of comments about [REDACTED] appearance

ALLEGATION: [REDACTED] said that Dr. Anderson made comments, verbally and in email, about her appearance. She indicated that the remarks ranged from general compliments such as "You look nice" or a comment that she had both "brains and looks," to a suggestion that she wear a particular shirt more often because it "enhanced her cleavage." [REDACTED] indicated that while she was [REDACTED] he made the observation that despite her [REDACTED], she still had a "great body." In one of her last meetings with him he made the comment, "Nice ass."

RESPONSE: Dr. Anderson responded that he did not recall the "cleavage" remark. He said, "I don't think I emailed her about her looks. It doesn't seem like something I'd do."

## 3. Allegation of not maintaining professional boundaries with student

ALLEGATION: [REDACTED] indicated that Dr. Anderson shared details about his personal life and became increasingly involved in her personal life to an extent that made her uncomfortable. She said that he talked about his [REDACTED] in detail and about how unhappy he was in [REDACTED]. [REDACTED] said that Dr. Anderson told her that he had a crush on her. She indicated that he made jealous remarks when she talked about other male friends or acquaintances, and that he once asked if she would sleep with him. In her last semester as an [REDACTED], she described that Dr. Anderson went into a "jealous rage" over the idea of a platonic male friend staying with her, and she became upset and frightened. She reported that in the summer of 2009, Dr. Anderson asked her if he weren't married, would she have sex with him. She said that she jokingly responded that she would only do so if they had sex right then and there in his office.

RESPONSE: Dr. Anderson indicated that he could not recall discussing his private life with [REDACTED]. He indicated that he remembered [REDACTED] discussing her childhood. He denied having a crush on her. In response to her claim that he went into a "jealous

rage," he responded that he is "even keeled. What you see is what you get." He denied propositioning her, stating, "No one time. Not a single time, not a dozen times." Dr. Anderson was asked why she would fabricate this. Dr. Anderson responded that "maybe she was hurt that I was not going to be her disability specialist" [in 2011]. He indicated that she felt an "easy familiarity" with him but because of her [REDACTED], he indicated that he would have responded something like "good to have you back, you'll be working with my colleague." Dr. Anderson indicated that in his mind, there was no connection between his emails and her feeling of being propositioned.

#### 4. Allegation of downloading and saving photographs

ALLEGATION: [REDACTED] said that Dr. Anderson [REDACTED] of her which he saved in a folder on his computer. She said that she provided some photographs and that Dr. Anderson [REDACTED] [REDACTED]. She said his continuing interest in [REDACTED] photos of her made her uncomfortable.

The investigators located 17 photographs of [REDACTED] in a folder named [REDACTED] on Dr. Anderson's hard drive (see Appendix D for list of photograph file names in [REDACTED] folder). He was asked to explain why he had [REDACTED] photographs and kept them on his hard drive. Five sample photographs were shown to Dr. Anderson: Dr. Anderson and [REDACTED] standing side-by-side; [REDACTED] wearing a blue wig; [REDACTED] leaning against a toilet; and two photographs of [REDACTED] wearing a silver spandex outfit and an antennae headband ([REDACTED]). Dr. Anderson was asked to explain one photograph of him standing beside [REDACTED]. Additional emails (Appendix D) from Dr. Anderson requesting or referencing photographs were shown to him ("Where's the pic?," in response to [REDACTED] writing "Picture of us as twins to follow shortly. . ." dated 8/21/08; "That pic is just unreal! We do look like twins," sent 8/22/08; "Send more photos," sent on 7/20/09; and "Those pics are spooky," sent on 9/08/09).

RESPONSE: Dr. Anderson indicated that the photographs were provided by [REDACTED]. He explained that the photograph of him and [REDACTED] was taken by [REDACTED] [REDACTED] r, who wanted to "memorialize" the moment and take a photo with the "counselor who was helpful." He indicated that in the photograph they looked like twins. In reference to the other photographs, he stated, "I didn't go find photos. Those were sent to me." He could not explain why he kept the photographs. He indicated that [REDACTED] sent him photos of trips she had taken. He said that he was not in the habit of erasing photos when they came to him. He denied having any photographs of [REDACTED]. Dr. Anderson was asked if he kept photos of other students. He responded that he probably had peer advisory group photographs as part of student bio-sheets. He did not recall other students sending photographs.

#### 5. Allegations of being "high" and sharing prescription medication

ALLEGATION: [REDACTED] said that Dr. Anderson mentioned to her numerous times that he was "high" and needed to be in that state to "get through the day." She said that

Dr. Anderson offered her prescription medication and [REDACTED] [REDACTED] claimed that Dr. Anderson offered her medications several times, including giving her a Lidocaine patch when she once mentioned that she [REDACTED]. [REDACTED]

The following email exchange took place on July 22, 2009 (emails are in chronological order, from earliest to latest. See Appendix E, page 102).

Date: Wed, Jul 22, 2009 at 2:39 PM

*And why are you laughing? Mr LMAO. You're the one with the problem.*

From: Scott Anderson <[sanderson@calmail.berkeley.edu](mailto:sanderson@calmail.berkeley.edu)>  
Date: Wed, Jul 22, 2009 at 2:42 PM

*I can't meet you there, I've drop in's [sic] now and an intake at 3:00. You'll have to leave class and hot foot it to the bear's lair or something. Tell me where. . . fast.*

-----  
From: Scott Anderson <[sanderson@calmail.berkeley.edu](mailto:sanderson@calmail.berkeley.edu)>  
Date: Wed, Jul 22, 2009 at 2:43 PM

*Never even heard of [REDACTED] but I just work here, what do you expect?*

-----  
From: [REDACTED]  
Date: Wed, Jul 22, 2009 at 2:43 PM

*I'll meet you in front of Spreoul Hall. Leaving class now*

RESPONSE: Dr. Anderson responded, "as I said before, I can't remember her not bringing up [REDACTED]. I don't know this [REDACTED]." Dr. Anderson indicated that [REDACTED]

[REDACTED] He added, "[REDACTED] is not something I would do, so I don't understand."

[REDACTED] He said that he was not familiar with [REDACTED]. Dr. Anderson indicated that he would never [REDACTED] or provide medications/drugs to others. He also denied providing Lidocaine and stated, "She must be talking about someone else." Dr. Anderson denied [REDACTED] allegation that he mentioned he needed to be "high" in order to "get through the day." He indicated that [REDACTED], but in response to her allegations, "never."

6. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

#### Training and orientation to the job

Dr. Anderson was asked a set of questions related to the training or orientation he received when he started working at DSP as well as ongoing training with respect to University policies or professional or ethical standards. He said that he attended the

University's New Employee Orientation and that for his job he was asked to review case note files. He indicated that he did not recall receiving "specific formal training" for his job. He indicated that there is no formalized training year-to-year on the job.

This investigator showed Dr. Anderson a copy of the AHEAD Code of Ethics (see Appendix G). He indicated that he did not believe he had ever seen this document and that he knows that a conference is associated with AHEAD but he had never attended. Dr. Anderson was asked if he had read the TRIO and Other Educational Opportunity Programs CAS Standards and Guidelines and if he recalled discussing these with his supervisor or colleagues. He indicated that CAS was not known to him. He indicated that he was knowledgeable of the TRIO program requirements to fulfill with regards to his responsibilities. With respect to other campus compliance trainings, Dr. Anderson indicated that he had not taken Sexual Harassment Training and that he had not taken Ethics Training. He did not recall seeing the campus-wide Information Technology policies such as the UC Electronic Communications Policy and the Computer use Policy. He stated that he had not had FERPA training.

**SUPERVISOR'S RESPONSE:** [REDACTED] stated that a TRIO/SSS Policy and Procedures Manual in a three-ring binder is provided to every DSP Disability Specialist when they start. The AHEAD Code of Ethics and Program Standards and TRIO Operations manual are contained in the binder. She indicated that she was not surprised that Dr. Anderson was not familiar with CAS, but that he should know this as the TRIO Standards and Guidelines. She indicated that at the start of every academic year, in August, all specialists get an updated manual. She indicated that these materials are also on the DSP website. [REDACTED] indicated that the Disability Specialists are expected to review and "be responsible for" the information in the binders. [REDACTED] indicated that she conducted an orientation to the job that included Dr. Anderson reading a manual entitled "Accommodating Students with Disabilities – Services for Students with Psychological Disabilities" written by his predecessor. She noted that she conducts start-up meetings in fall and spring with all the specialists, weekly specialist team meetings, and holds one-on-one meetings with specialists. She indicated that she is explicit with specialists around standards and policies around ethical and professional interactions between staff and students.

**COLLEAGUE RESPONSE:** This investigator asked long-time Disability Specialist [REDACTED] to describe her knowledge of new staff orientations and weekly specialist meetings. She described the orientation as taking "at least two weeks with [REDACTED], probably several months." She indicated that for a new DSP Specialist recently hired, his orientation has included shadowing staff at student meetings and meeting with other specialists. [REDACTED] confirmed that the DSP Operations manual and TRIO Operations Manual are provided to all Disability Specialists. She indicated that the TRIO manual is required to be read every year by TRIO staff. She described that weekly specialist meetings have set agendas provided by the supervisor, but that this is also a time to do "case consults," where Disability Specialists can brainstorm on challenges with a particular student. She indicated that staff development and ongoing professional development is made available and that staff can take advantage based on staff specialties and interests.

### Dr. Anderson's concluding remarks

Dr. Anderson stated "I love my job." He indicated that this was a "lightening strike out of the blue." He described receiving a card of appreciation from one of his students. He indicated that he is a "good specialist. I do good work. I work well with colleagues." He stated, "I adamantly and strongly refute these things. They're clearly not right and the allegations don't represent me."

### Review of documents and relevant policies

The employee's personnel file contained no documentation of any reports or discipline related to [REDACTED] allegations. The file indicated that Dr. Anderson had participated in professional development activities including attending a WESTOP (Western Association of Educational Opportunity Personnel) conference for TRIO professionals, and attending a U.C. Davis MIND Institute (focus on neurodevelopmental disorders) and CAPED (professional association of faculty, staff and students serving students with disabilities at California's institutions of higher educations) events.

This investigator reviewed documents and pertinent policies and standards related to the requirements of Dr. Anderson's position, the Disabled Students' Program, the University of California and U.C. Berkeley, professional codes of ethics, and federal laws and guidelines related to the U.S. Department of Education TRIO programs (see Appendix G). The following information was reviewed:

1. Scott Anderson's job description (Student Affairs Officer IV) provided at hire and job description (Student Disability Specialist 4) submitted for Career Compass on December 15, 2008 (Appendix B)
2. TRIO Procedures Manual (Appendix G, page 108), including the following:
  - AHEAD (Association on Higher Education and Disability) Code of Ethics
  - AHEAD Professional Standards
  - AHEAD Program Standards and Performance Indicators
  - TRIO and OTHER EDUCATIONAL OPPORTUNITY PROGRAMS CAS Standards and Guidelines
3. UC Statement of Ethical Values and Standards of Ethical Conduct (Appendix G, page 135)

1. In a review of Dr. Anderson's job description at hire, among the controls for his position, Dr. Anderson is expected to be:

- knowledgeable of and comply with the policies and practices of the Disabled Students' Program
- knowledgeable of and adhere to the terms, rules, and regulations stipulated in the U.S. Department of Education TRIO/Student Support Services grant

Dr. Anderson is expected to administer his caseload "in compliance with applicable laws and regulations, University policies and procedures, DSP policies and practices, and the terms and conditions of grants and contracts." This job description was reviewed with the employee when he was hired and signed by Dr. Anderson on February 1, 2008.

The Career Compass job description custom scope specifies that the position "functions as the campus expert for the provision and coordination of academic services for students with psychological disabilities including major mood disorders, anxiety disorders, and psychotic disorders. . . . Decisions can impact university compliance and liability under federal and state disability law and regulations. On own initiative raises to manager's attention particularly contentious issues and/or especially complex situations." Knowledge and skills required of the position include the following:

- Thorough knowledge of the legal framework involving accommodations for students with disabilities through state and federal laws and guidelines.
- Thorough knowledge of assessment, accommodation, and intervention techniques involved in working with students with psychological disabilities, ADHD, and Autism Spectrum Disorders.

2. The Disabled Students' Program contains a comprehensive website that includes detailed information about program services and activities and staff responsibilities. The TRIO Procedures Manual (<http://dsp.berkeley.edu/DspOp/TRIO/trio.html>) is a link from the DSP Operations Manual website. The TRO Procedures Manual contains three documents under the section titled Professional Standards (pertinent text is highlighted in italics):

- AHEAD Professional Standards – details the responsibilities and professional standards that administrators and direct service providers are expected to follow.
- AHEAD Code of Ethics for postsecondary disability service providers includes the following principles:
  2. Postsecondary disability service providers *strive to achieve and maintain the highest levels of competence and integrity* in all areas of assistance to adult students with disabilities. This support is guided by *the consistent use of objective, professional judgment in all areas*, especially when addressing the confidential nature of the student's disability.
  3. Postsecondary disability service providers continually participate in professional activities and educational opportunities designed to strengthen the personal, education, and vocational quality of life . . . this includes the *ongoing development of strategies, skills, research, and knowledge pertinent to the highest quality of disability service delivery* . . .
  5. Postsecondary service providers are actively engaged in supporting and clarifying institutional, state, provincial, and federal laws, policies, and procedures applicable to the service delivery to students with disabilities. Compliance implies

*that professionals will not condone or participate in any unethical or illegal acts discussed within these guidelines.*

- TRIO and OTHER EDUCATIONAL OPPORTUNITY PROGRAMS CAS Standards and Guidelines includes the following sections (Appendix G, pages 133–134):

- *Part 8. LEGAL RESPONSIBILITIES*

TRIO and Other Educational Opportunity (TRIO and OEO) Programs staff members must be knowledgeable about and responsive to laws and regulations that relate to their respective responsibilities.

- *Part 12. ETHICS*

All persons involved in the delivery of TRIO and Other Educational Opportunity (TRIO and OEO) Programs must adhere to the highest principles of ethical behavior. TRIO and OEO programs must develop or adopt and implement appropriate statements of ethical practice. TRIO and OEO programs must publish these statements and ensure their periodic review by relevant constituencies.

TRIO and OEO programs staff members must recognize and avoid personal conflict of interest or appearance thereof in their transactions with students and others.

TRIO and OEO programs staff members must strive to insure the fair, objective, and impartial treatment of all persons with whom they deal. Staff members must not participate in nor condone any form of harassment that demeans persons or creates an intimidating, hostile, or offensive campus environment.

TRIO and OEO programs staff members must perform their duties within the limits of their training, expertise, and competence. When these limits are exceeded, individuals in need of further assistance must be referred to persons possessing appropriate qualifications.

TRIO and OEO programs staff members must be knowledgeable about and practice ethical behavior in the use of technology.

The AHEAD Program Standards and Performance Indicators are provided to the Disability Specialists as part of a hard-copy binder as well as available online. Under the "Training and Professional Development" section, Disability Services Professionals are expected to "refer to and apply a relevant professional code of ethics when dealing with challenging situations."

3. University of California Statement of Ethical Values and Standards of Ethical Conduct (Appendix G, page 135). The Ethics Briefing Training is required of all UCB employees.

The Statement of Ethical Values includes the following:

- Integrity – We will conduct ourselves with integrity in our dealings with and on behalf of the University.

- **Accountability** – We will be accountable as individuals and as members of this community for our ethical conduct and for compliance with applicable laws and University policies and directives.

All members of the University community are expected to adhere to the Standards of Ethical Conduct. Excerpts applicable to this case are below:

1. Fair Dealing – Members of the University community are expected to conduct themselves ethically, honestly and with integrity in all dealings. This means principles of fairness, good faith and respect consistent with laws, regulations and University policies govern our conduct with others both inside and outside the community. . . . No unlawful practice or a practice at odds with these standards can be justified on the basis of customary practice, expediency, or achieving a “higher” purpose.
2. Individual Responsibility and Accountability – Members of the University community are expected to exercise responsibility appropriate to their position and delegated authorities. . . . Each individual is expected to conduct the business of the University in accordance with the Core Values and the Standards of Ethical Conduct, exercising sound judgment and serving the best interests of the institution and the community.
3. Respect for Others – The University is committed to the principle of treating each community member with respect and dignity.
4. Compliance with Applicable Laws and Regulations – . . . There are also additional requirements unique to higher education. Members of the University community are expected to become familiar with the laws and regulations bearing on their areas of responsibility.
5. Compliance with Applicable University Policies, Procedures and Other Forms of Guidance – . . . Members of the University community are expected to transact all University business in conformance with policies and procedures and accordingly have an obligation to become familiar with those that bear on their areas of responsibility. Each member is expected to seek clarification on a policy or other University directive he or she finds to be unclear, outdated or at odds with University objectives. It is not acceptable to ignore or disobey policies if one is not in agreement with them, or to avoid compliance by deliberately seeking loopholes.

In some cases, University employees are also governed by ethical codes or standards of their professions or disciplines—some examples are attorneys, auditors, physicians and counseling staff. It is expected that those employees will comply with applicable professional standards in addition to laws and regulations.

#### B. Follow-up Interview with [REDACTED]

On July 21, 2011, the investigators met with [REDACTED] to discuss Dr. Anderson's responses to some of the allegations. The responses discussed pertained to how Dr. Anderson obtained photographs of [REDACTED] and the photographs found in Dr.

Anderson's hard drive; some of the email communications between Dr. Anderson and [REDACTED]; and sharing of prescription medications. The investigators also talked to [REDACTED] about Dr. Anderson's response that [REDACTED] was coming forward with her claims because he was not going to be her Disability Specialist in 2011.

Response to downloading and saving photographs: The investigators told [REDACTED] that Dr. Anderson indicated that [REDACTED] had sent all the photographs to him. They told her that 17 photographs of her were located in a folder named [REDACTED] on Dr. Anderson's hard drive. [REDACTED] confirmed that she provided some of the photographs. However, she claimed that Dr. Anderson solicited photographs from her and [REDACTED]. She indicated that she had [REDACTED]

[REDACTED] She described how Dr. Anderson told her that he had found her [REDACTED]

[REDACTED] She indicated that he did not understand why she did not tell him why she [REDACTED]. [REDACTED] stated that "it became like a game to him." She indicated that Dr. Anderson knew that she was annoyed about his [REDACTED] [REDACTED] She indicated that she played along with him because she did not want a confrontation. [REDACTED] indicated that this was during a period that she was not [REDACTED] She indicated that he also called her to request photographs. She stated, [REDACTED] indicated that Dr. Anderson started requesting photographs after she [REDACTED] said that Dr. Anderson said, "send me a photo."

[REDACTED] [REDACTED] . She indicated that she "found it creepy that he [REDACTED] without my knowing." [REDACTED] claimed that Dr. Anderson downloaded the photograph of her dressed as an alien from her Facebook page. She denied sending him the photo. [REDACTED] was asked if she ever told him that she did not want him to download photographs. She stated, "No. I didn't want to have a confrontation. I was afraid of him. I was in a very vulnerable position."

Response to email communications: The investigators showed [REDACTED] some of the email communications between Dr. Anderson and her, such as the email threads of a sexual nature. She indicated that she felt she needed to "play along" because she was returning to school in the summer and did not want a confrontation. She indicated that "anything sexy or talking about sex began with him talking about [REDACTED]." She stated, "He talked to me about his own sex life. Then he asked me about mine." Title IX Compliance Officer Oldham indicated that in some of his responses, Dr. Anderson claimed that he was trying to cheer her up and that [REDACTED] was the one to set the tone of their interactions. [REDACTED] denied this. Title IX Compliance Officer Oldham noted that Dr. Anderson talked about how [REDACTED]

[REDACTED] She indicated that just before summer 2009, he said he had a crush on her. She said, "In 2009, things became overtly weird."

Response to sharing prescription medication: The investigators told [REDACTED] that Dr. Anderson had indicated that [REDACTED]

████████ stated, "That's a lie. He specifically asked for it." She claimed that Dr. Anderson asked to exchange drugs 5-6 times and that he once put Lidocaine patches in her purse. ██████████ indicated that Dr. Anderson initially brought up the topic of drugs by asking her ██████████. She indicated that the questions were "like what a DSP counselor would ask." She indicated that he knew that she knew a lot ██████████.

Response to why [REDACTED] is making these allegations: In the discussion on professional boundaries, Dr. Anderson implied that [REDACTED] was coming forth with these allegations because "maybe she was hurt that I was not going to be her Disability Specialist." [REDACTED] denied this, saying "I never said I missed him or I wished he was my counselor." She indicated that she saw Dr. Anderson in the meeting before summer (2011) and briefly spoke to him. She indicated that he asked her to step into his office to "catch up," as in "long time no see." [REDACTED] said she told him that she was taking a Summer Sessions course and needed an accommodation as a [REDACTED] student. She indicated that there had been no contact between her and Dr. Anderson before [REDACTED]. She indicated that she had "finally had it out with him and chewed him out." She indicated that he was "calling me on the phone all the time. He would try to keep me on the phone for hours." She indicated that she had "asked [REDACTED] if it was possible to switch counselors." Towards the ending of the meeting, [REDACTED] stated, "Scott wasn't doing his job. I asked him for help. [REDACTED] He told me he couldn't help. I blew up."

Follow-up email. [REDACTED] sent a follow-up email response entitled "A very important afterthought from our meeting on Thursday afternoon...." to Title IX Compliance Officer Oldham on July 23, 2011. In her email she describes her reasons for coming forward with her allegations and the timing of her complaint. An excerpt from [REDACTED] [REDACTED] email is below (see Appendix H for full letter; emphases throughout the letter were provided by [REDACTED]):

"As you mentioned to me during our meeting on Thursday (7/21/11) afternoon, S.A. claims that I was the first to "set the tone" for the exchanges between us, whether it be by e-mail, phone, in person, etc.

As I told you, that is definitely NOT the case/ truth.

However, hypothetically speaking, let's say that S.A. is telling the truth when he claims that I was the one who began or sparked the tone and content of the inappropriate

exchanges that took place. Regardless, he is the professional and DSP counselor working primarily with students that have a psychological disability of some kind. There are many psychological illnesses that include hyper-sexuality as one of the symptoms (for example: Bipolar Disorder with Mania; Personality disorders, etc.) and as a psychologist S.A. would absolutely know this (far better than I would or do!). Therefore, even if I had started this unprofessional exchange or was the first to "set the tone," wouldn't it be *his* responsibility to somehow put a stop to it and/ or bring it to the attention of someone at DSP or otherwise? No matter *how* this started or *who* started it, I would think that as a professional, psychological DSP counselor working with mentally ill students it would be his responsibility to: A) try to stop the behavior; B) absolutely, and under no circumstance, participate in that type of exchange with any student; C) report it to someone, especially if it is a sign that the student's condition is declining and they possibly need medical/ psychological attention (or an adjustment to their medication); D) stick to whatever policies the school has in place for dealing with these kinds of situations (as I assume he received sexual harassment training because most jobs require it) rather than "playing along" to the student's inappropriate tone/ behavior/ advances/ etc.; and F) the power dynamic between a grown, professional (that has some kind of power over what benefits or help a disabled student needs to [REDACTED]) and the young, ill, vulnerable undergraduate student (many of whom are afraid to even apply for DSP accommodations when it is due to a psychological illness) may make the student afraid to come forward—which was true in my case—whether there is a direct threat or not for many reasons: because psychological illnesses have been so stigmatized the student may feel like they would not be believed [mainly due to their illness and status] if it was their word against an employee, professional, DSP counselor at UCB; or [REDACTED]

My point is, that regardless of *who started it*, I would think that it would be S.A.'s responsibility as a counselor, as a professional, and as a representative of UCB to follow UC policy and also attempt to help the student if necessary. . . . so, the way I see it (and the main reason I came forward) is that this could easily happen to other UC students and make things very uncomfortable and difficult for them. I had no reason to report this now, [REDACTED] and am only taking 2 summer courses (which are open to the public), and I would never have to deal with S.A. again. So I have no ulterior motive of revenge. The main differences now (as opposed to reporting this when it was happening) are: 1) I am not a regular [REDACTED] and don't have to be afraid of what would happen if I said anything; 2) I am older, wiser, and [REDACTED]; 3) being removed from the situation makes it less difficult to cope with emotionally than while it was occurring, and 4) my main reason for coming forward, since this was no longer effecting me and I no longer had to be in contact with S.A., was and is to help protect other students from having to go through what I went through.

Even though I "played along," the situation made [REDACTED]. I also didn't know what to do about it. I was [REDACTED] (as you know). And, yes, in part, I was afraid that I would not be taken seriously and then would have ended up in an even more awkward and uncomfortable situation: if S.A. had been investigated while I was attending UBC [sic] for [REDACTED] and needed DSP accommodations—meaning that even if I changed counselors I would inevitable run into him in the DSP office or on campus— if he was not found to have done something wrong and remained at his job in the DSP office (where his personal office is unavoidable when entering the DSP office)."

#### IV. DISCUSSION OF THE ISSUES

[REDACTED] asserted that Dr. Anderson demonstrated behavior that was unwelcome, unprofessional, and inappropriate during the period that he was her Disability Specialist. She alleges that he made comments about her appearance and sent emails of a sexual nature. She claims that he shared details about his personal life as well as became involved in her personal life. [REDACTED] claims that he [REDACTED] photographs of her that he saved on his computer. She claims that he told her that he had a crush on her and asked her once if she would sleep with him. She alleges that he offered her prescription medication as well as [REDACTED]  
[REDACTED]

Because the individual's versions of events differ greatly from each other and there were no direct witnesses for any of the verbal interactions (phone conversations or face-to-face), this investigator relied on the written record as the primary evidence, which are the email communications between the two individuals.

Email Communications: In reviewing the email communications, this investigator focused on emails that Dr. Anderson initiated or his responses in email exchanges. The email evidence provides numerous examples that are inappropriate and unprofessional or contain sexual innuendo or sexual jokes. Dr. Anderson also shared personal information in some of the emails.

Examples of inappropriate and unprofessional emails include Dr. Anderson making a reference to using opiates (email #1); referring to [REDACTED] "profane ass" and as "lazy-bones" (#2); making references to his [REDACTED] (#5); describing his students and their feelings of entitlement (#6); using an inappropriate tone in describing his having to attend a "students with disabilities" lecture as well as referring to [REDACTED] "weary ass" (#8); describing concern about [REDACTED] by referencing "unrequited love," "time of the month," and "bad lasagna" (#15); sending an attachment of North Korean leader Kim Jong II and writing that he changed her grade (#17); providing detailed personal relationship advice (#18); and making a reference to feeling jealous about one of [REDACTED] male friends picking up a letter from DSP (#26).

Email communications containing sexual innuendo or of a sexual nature include: referring to [REDACTED] making suggestive sounds (email #3); telling her to "put on the fishnets and make some money" (#4); referencing Levitra and her being a Dominatrix (#6); asking [REDACTED] about her plans for Valentine's Day and sending an attachment with a picture of handcuffs and a can of whip cream (#7); describing [REDACTED] in a picture as "a total babe" and "hot" (#9); implying that he would approve a letter of accommodation only if she were lucky (#11); writing that he was viewing an internet [REDACTED] while at work (#12); writing "Kiss it? Only after I spanked it." (#16); writing that he would go to her class wearing a "banana hammock" and speak with her in the men's room (#19); sending a list of "50 Things you don't say while having sex" (#20); making a reference to punishing her for not completing school papers and meeting her with cuffs (#21); referring to [REDACTED] as "hot pants," writing "No sex as you could not handle me," and requesting pictures of her wearing a miniskirt (#22);

sending a web link to "Frotteurism" and requesting "Will you give me a hand with it?" (#24).

These emails and others referenced throughout the report located on the CalMail server were sent over a 13-month period (between August 2008 to September 2009). Dr. Anderson did not deny sending any of the emails. The email evidence sustains [REDACTED]. [REDACTED] claims that Dr. Anderson sent emails containing sexual innuendo and sexual jokes. Evidence also indicates that he sent highly inappropriate and unprofessional emails. The investigators could not locate any emails where Dr. Anderson directly asks [REDACTED] to sleep with him, but the emails in the above paragraph are highly suggestive. In explaining the emails, Dr. Anderson repeatedly brought up several explanations: he was using humor; he was "coaching" or attempting to help [REDACTED] feel better because of her [REDACTED]; he was using "casual banter;" and he was responding in kind ("commerce of language") to the language she used and how she interacted with him. In some of his responses, Dr. Anderson admitted that his emails were "ill-advised" and that he should have talked to his supervisor about [REDACTED]. He also indicated that these communications took place early on in his job in DSP when his "inventory of tools" was more limited. However, the email records show that Dr. Anderson sent some of the most egregious emails in July and August 2009, 18 months after he had been in his position. Dr. Anderson's explanations are not credible and evoke questions about his professional judgment and integrity with respect to appropriate interactions, communications, and interventions with a student.

Comments about [REDACTED] appearance: Prior to reviewing the emails brought forward by the investigators, Dr. Anderson stated "I don't think I emailed her about her looks. It doesn't seem like something I'd do." However, emails such as "Re: your photo" dated 3/20/09; and "Re: hot" dated 8/12/09 contradict Dr. Anderson's statement.

[REDACTED] and saving photographs: Dr. Anderson claimed that all the photographs were sent to him. [REDACTED] confirmed that she sent some photographs to Dr. Anderson, however, she claimed that he asked her for some photographs and [REDACTED]. Emails sent on 8/21/08, 7/20/09, and 8/12/09 demonstrate that he solicited photographs from [REDACTED]. In addition, on 3/20/09, Dr. Anderson asked [REDACTED] about a photograph that [REDACTED]. The investigators were not able to locate the photograph of [REDACTED] downloaded from the internet. One of the photographs ([REDACTED]) shows [REDACTED] in a tight-fitting spandex outfit which she claimed he downloaded from her Facebook page. None of the photographs were salacious or pornographic. It is unclear how and in what context Dr. Anderson obtained all the photographs of [REDACTED], but the photographs located on his hard drive sustain [REDACTED] claim that Dr. Anderson saved photographs of her in a folder. This investigator found it highly unusual that Dr. Anderson saved 17 photographs of [REDACTED] and deliberately moved them into a folder specifically created and named [REDACTED]. Dr. Anderson did not have an explanation for this folder or why he kept the photographs.

Being high and sharing prescription medications: Dr. Anderson refuted [REDACTED] claim that he mentioned he was high many times. This investigator was unable to locate

any email evidence to support this allegation. Dr. Anderson refuted [REDACTED] claim that he offered her prescription medication as well as [REDACTED] [REDACTED]. However, the email record on July 22, 2009 supports [REDACTED] allegation that Dr. Anderson offered prescription medication to her. Dr. Anderson was contradictory in his response, [REDACTED]

He also indicated that he did not know what [REDACTED] was. However, Dr. Anderson's claim of ignorance lacks credibility as the email record shows that he referenced [REDACTED] twice in one email: "[REDACTED]"

Knowledge of work requirements, policies and standards: With regards to whether Dr. Anderson was aware of policies and performance standards relevant to his position: Dr. Anderson claimed to have no knowledge of the AHEAD Code of Ethics or the TRIO/CAS Standards and Guidelines. The AHEAD Code of Ethics is contained in the TRIO /SSS Policies and Procedures Manual distributed to all Disability Specialists. While the department's expectation is that the Specialists are responsible for reading the TRIO Operations Manual, the department has not kept formal verification of how this expectation was communicated or met. Regarding Ethics training, Dr. Anderson denied taking the training, however records show that he completed the mandatory online Ethics Briefing on February 26, 2010. Dr. Anderson indicated that he had not taken Sexual Harassment Training. The investigators confirmed that he is not in a job category where this is currently a requirement. Dr. Anderson also indicated that he had not undertaken FERPA Training. However, records show that he completed FERPA Training in 2008, as it is a requirement for accessing the campus student data systems. In addition, Dr. Anderson indicated that he did not recall seeing the IT Communications Policies, however, in order to create a CalMail account in 2008, Dr. Anderson would have had to type "yes" to the question "Do you agree to the UC Berkeley email policy? (if so, enter "yes")" in the "Create a CalMail Account" screen and affirm that he had read and would abide by the UC Electronic Communications Policy, UC Berkeley Computer Use Policy, and CalMail Use Policies. Records of training completion contradict many of Dr. Anderson's responses.

Dr. Anderson's job description includes the requirement that the employee be "knowledgeable of and comply with the policies and practices of the Disabled Students' Program" as well as be "knowledgeable of and adhere to the terms, rules, and regulations stipulated in the U.S. Department of Education TRIO/Student Support Services grant." In addition, he is expected to administer his caseload "in compliance with applicable laws and regulations, University policies and procedures, DSP policies and practices, and the terms and conditions of grants and contracts." Dr. Anderson

signed this job description on February 1, 2008, acknowledging that he had reviewed the requirements of the position. Regarding standards and policies related to his work or profession, working under the TRIO/SSS grant, Dr. Anderson was provided with a Policies and Procedures Manual that is updated annually. This was confirmed by his supervisor and a DSP colleague. Dr. Anderson's responses that he is ignorant of the standards and policies lack credibility and demonstrate either a disregard of the requirements of his position or a lack of veracity in his answers.

Dr. Anderson's role as a Student Disability Specialist 4: A key consideration in the examination of the allegations and the interactions between Dr. Anderson and [REDACTED] is Dr. Anderson's role as a Disability Specialist 4 in the Disabled Students' Program and his position in relation to his students.

Dr. Anderson claimed that he never received "specific formal training" for his job and that there is no "formalized training" year-to-year. Dr. Anderson was hired as a Student Disability Specialist 4. At the professional 4 level, the employee is recognized as a "technical leader with a high degree of knowledge in the overall field and recognized expertise in specific areas . . ." This investigator would expect that Dr. Anderson would already have attained his "formal training" or professional training prior to being hired at DSP. [REDACTED], who has supervised Specialists for 18 years, confirmed that she provided Dr. Anderson with an orientation to the job. In addition to participating in weekly specialist meetings, start-up meetings every semester, and in one-on-one meetings with his supervisor, Dr. Anderson has also availed himself of professional development activities, both on- and off-campus. In explaining some of his behavior and interactions with [REDACTED], Dr. Anderson indicated that at the time he did not have the experience and maturity in the job that he does now. He also indicated that his "inventory of tools" was more limited. However, Dr. Anderson was not hired into a training position or intern position. He was hired at the highest professional level available on campus in the Student Disability Specialist job family, as a professional with advanced skills and knowledge and an advanced degree in the field where "problem-solving frequently requires analysis of unique issues/problems without precedent and/or structure. . ." This investigator found that Dr. Anderson's responses pertaining to training and knowing his job lacked credibility.

Another important consideration is the power differential between the Disability Specialist and the [REDACTED]. Dr. Anderson's caseload consists of students with psychological disabilities, an extremely vulnerable student population. As the [REDACTED] Disability Specialist, Dr. Anderson held the power in the relationship; he had access to DSP records and could view her academic record, and he played a critical role in assisting the [REDACTED] with her academic accommodation needs. Regardless of [REDACTED] "commerce of language" or the "type of interaction she brought to their sessions," Dr. Anderson's responsibility as the [REDACTED] Disability Specialist should have been to maintain a professional boundary and put an immediate halt to the types of interactions and communications demonstrated by [REDACTED], and discuss the situation with his supervisor or refer the [REDACTED] to his supervisor. The investigators could find no evidence in the email communications that demonstrate that Dr. Anderson took such actions. In fact, some of the most egregious email communications were not part of email threads that [REDACTED] initiated, but rather were stand-alone emails that Dr. Anderson sent (e.g., whip cream and hand cuffs, 2/13/09; Kim Jong II

and changing grade, 7/14/09; "50 Things you don't say while having sex," 8/3/09; and frotteurism, 8/19/09). By the behavior demonstrated in his email communications and by not taking any action to set professional boundaries, this investigator finds that Dr. Anderson breached the responsibilities of his position.

Timing of the complaint: One of the questions raised is why [REDACTED] waited to come forward with these allegations two years after the alleged behavior took place. Dr. Anderson implied that [REDACTED] is coming forth now because he told her that he was not going to be her Disability Specialist for the [REDACTED] Summer Sessions classes that she was taking. [REDACTED] disputed this scenario. She told the investigators that she had asked DSP in fall 2009 if she could switch disability counselors. [REDACTED]

[REDACTED] confirmed that Dr. Anderson indicated in DSP Case Management notes that he had received a call from [REDACTED] on 10/2/09 that "due to recent [REDACTED]

[REDACTED]" Case Management notes also indicated that [REDACTED] left a message for [REDACTED] around 10/6/09 "regarding request to change specialist [REDACTED] . . ." and that [REDACTED] was switched from Dr. Anderson's caseload to [REDACTED] caseload in 2009. [REDACTED]

Case Management notes on May 23, 2011 indicate that [REDACTED] mentioned that she had seen Dr. Anderson recently. [REDACTED] met with [REDACTED] May [REDACTED], 2011.

[REDACTED] indicated that at the time she "did not report Scott because I did not want to get in trouble." She indicated that she was [REDACTED] She indicated that she needed help and was afraid of saying "no" to Dr. Anderson because she was intimidated and afraid that he could take retaliatory action if she came forward.

In her 7/23/11 follow-up email, [REDACTED] wrote, ". . . the main reason I came forward . . . is that this could easily happen to other UC students and make things very uncomfortable and difficult for them. I had no reason to report this now, [REDACTED] [REDACTED] . . . and I would never have to deal with S.A. again. So I have no ulterior motive of revenge. The main differences now (as opposed to reporting this when it was happening) are: 1) I am not a [REDACTED] [REDACTED] and don't have to be afraid of what would happen if I said anything; 2) I am older, wiser, [REDACTED]; 3) being removed from the situation makes it less difficult to cope with emotionally than while it was occurring, and 4) my main reason for coming forward, since this was no longer effecting me and I no longer had to be in contact with S.A., was and is to help protect other students from having to go through what I went through."

This investigator notes that [REDACTED] did not willingly come forth to the campus about her concerns. [REDACTED] confided in [REDACTED] who was assigned to be her Disability Specialist for the 2011 summer classes. [REDACTED] was obligated to report [REDACTED] concerns to the Campus Climate and Compliance Office because of the potential violations of University policies. [REDACTED] indicated to Title IX Compliance Officer Oldham that she was uncomfortable in proceeding with the investigation and Title IX Compliance Officer Oldham communicated that whether or not [REDACTED] continued to participate in the investigation, the campus was obligated

to move forward in investigating the allegations. This investigator found [REDACTED] explanations credible as to why she waited to come forward with her concerns.

## V. CONCLUSION

This investigator evaluated the record of the allegations as a whole and gave consideration to the totality and context of the circumstances. Because there were no witnesses to the verbal (phone or face-to-face) interactions between the two parties, the primary evidence was the written records of email communications. Based on a preponderance of evidence in the email records collected, this investigator concludes that improper behavior occurred. There is sufficient evidence in the email records to conclude that highly inappropriate and unprofessional emails were sent by Dr. Anderson, some that consisted of comments about [REDACTED] appearance, or contained sexual innuendo, or sexual jokes. These emails were egregious, inexcusable, and violated professional boundaries and standards. The email record also demonstrates that Dr. Anderson indicated that he would provide [REDACTED] with ½ of a [REDACTED]

The above actions as evidenced in the email communications are irrefutable. In his role as a Disability Specialist 4 in the Disabled Students' Program, Dr. Anderson is expected to adhere to a certain behavioral and professional standard, and conduct himself with integrity and in an ethical manner. This investigator found that Dr. Anderson's conduct violated the department's and the TRIO SSS professional standards and professional codes of ethics as well as the University's Standards of Ethical Conduct. [REDACTED] indicated that she did not come forward during the period of time that Dr. Anderson was her Disability Specialist because she was sick, scared, and intimidated. Dr. Anderson's unprofessional and egregious behavior poses a potential risk to the university, especially given his caseload of students with psychological disabilities. Given Dr. Anderson's key position on campus and his work with a highly vulnerable student population, this investigator finds that Dr. Anderson's actions did rise to the level of misconduct.